

REMARKS

Reconsideration of the above-identified patent application in view of the amendments above and the remarks following is respectfully requested.

Claims 3-18 and 26-40 are in this case. Claims 3-18 and 26-40 have been rejected under § 103(a). Dependent claims 6-9 have been canceled. Independent claims 16, 17, 26 and 34-36 and dependent claims 10-12 have been amended. New independent claims 41 and 42 have been added.

The claims before the Examiner are directed toward a portable device, for data storage and transfer, that optionally functions in a stand-alone mode while exchanging data with another, similar device. The device includes a non-volatile memory for storing the data and a single interface that the device uses to exchange data with other devices. In one embodiment of the present invention, the operations of both the device and a similar device with which the device exchanges data are restricted to data storage and transfer. In another embodiment of the present invention, both the device and a similar device with which the device exchanges data lack operating systems. In yet another embodiment of the present invention, the device also includes a memory for storing a software application for controlling the data exchange, and neither the device nor a similar device with which the device exchanges data is capable of receiving an additional software application. Data to be exchanged are marked and selected according to type.

§ 103(a) Rejections – Matthews, III '634

The Examiner has rejected claims 3-18 and 26-40 under § 103(a) as being unpatentable over Matthews, III, US Patent Application Publication No.

2003/0027634 (henceforth, "Matthews, III '634"). The Examiner's rejection is respectfully traversed.

Claims 6-9 have been canceled, and claims 10-12 have been amended to depend from new claim 41. This renders moot the Examiner's rejection of claims 6-12.

Matthews, III '634 teaches a portable wireless transceiver device **22** for storing and exchanging load instructions **84, 92** for playing a game on a fixed-location platform **58**. A device **22** that is within wireless communication range of another device **22** automatically receives load instructions **84** from the other device **22** and sends load instructions **92** to the other device **22**. The user of device **22** later uses interface **34** of device **22** to connect device **22** to fixed-location platform **58** to continue playing the game. Load instructions **84** that device **22** has received are downloaded to fixed-location platform **58**. In response, fixed-location platform **58** continues the game in accordance with load instructions **84** and uploads new load instructions **92** to device **22**.

One crucial distinction between device **22** of Matthews, III '634 and the device of the present invention is that device **22** of Matthews, III '634 has two interfaces for data exchange: transceiver/antenna **28** for wireless data exchange with other devices **22** and interface **34** for data exchange with fixed-location platform **58**. By contrast, the device of the present invention has a single interface that is used both for exchanging data with other, similar devices and for exchanging data with other kinds of devices such as a computer. There is neither a hint nor a suggestion in Matthews, III '634 of configuring device **22** with a single interface for all data exchanges.

While continuing to traverse the Examiner's rejections, Applicant, in order to expedite the prosecution, has chosen to amend independent claims 16, 17, 26 and 34-36 in order to clarify and emphasize this crucial distinction between the device of the present invention and device **22** of Matthews, III '634. Specifically, claims 16, 17, 26 and 34-36 have been amended to clarify that the device of the present invention has a single interface for data transfer and that the data transfer for which the single interface is provided is data transfer to other devices generally, not just to other devices of the present invention. Support for these amendments is found in the specification in Figures 1 and 2 and the accompanying text. Figure 1 shows device **12** with only one device interface **16** and with device **12** communicating with computer **14** via device interface **16** of device **12** and port **28** of computer **14**. Figure 2 shows device **12** with only one device interface **16** and with device **12** communicating with a similar device **32**, that also has only one device interface **16**, and with devices **12** and **32** communicating with each other via their device interfaces **16**.

Amended independent claims 16, 17, 26 and 34-36 now feature language which makes it absolutely clear that the device of the present invention includes a single interface for all data exchanges. Applicant believes that the amendment of the claims completely overcomes the Examiner's rejections on § 103(a) grounds.

With independent claims 16, 17 and 26 allowable in their present form, it follows that claims 3-5, 13-15, 18, 27-33 and 37-39, that depend therefrom, also are allowable.

Turning now to independent claim 40, this claim recites another crucial distinction between the device of the present invention and device **22** of Matthews, III '634. Device **22** of Matthews, III '634 exchanges only one type of data, the load instructions, with other devices **22**. Device **22** therefore lacks the ability of the device

of the present invention, as recited in claim 40, of marking data according to type and selecting data for transfer according to type. This is an ability that is not needed for the game-playing application of Matthews, III '634, and so is neither hinted nor suggested in Matthews, III '634. It follows that claim 40 is allowable over Matthews, III '634 in its present form.

Similar limitations are recited in claims 8 and 9. Therefore, claim 9 has been rewritten in independent form, as new claim 41, and claim 8 has been rewritten in independent form, as new claim 42. Correspondingly, claims 6-9 have been canceled and claims 10-12 have been amended to depend from new claim 41.

In view of the above amendments and remarks it is respectfully submitted that independent claims 16, 17, 26, 34-36 and 40-42, and hence dependent claims 3-5, 10-15, 18, 27-33 and 37-39 are in condition for allowance. Prompt notice of allowance is respectfully and earnestly solicited.

Respectfully submitted,



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